

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-30090

Sitcha Richard

v.

Frederick MacDonald, et al

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 5/17/05.

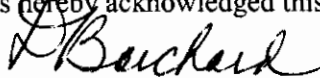
In testimony whereof, I hereunto set my hand and affix the seal of this Court on June 7, 2005.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 6/8/05



Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL, HABEAS

**United States District Court
District of Massachusetts (Springfield)
CIVIL DOCKET FOR CASE #: 3:04-cv-30090-MAP**

Sitcha v. MacDonald et al
Assigned to: Judge Michael A Ponsor
Cause: 28:2241 Petition for Writ of Habeas Corpus (federa

Date Filed: 05/11/2004
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: U.S. Government
Defendant

Petitioner

Richard Sitcha

represented by **Richard Sitcha**
(A95 461 653)
Plymouth County Correctional Facility
26 Long Pond Road
Plymouth, MA 02360
PRO SE

John P. McKenna
John P. McKenna & Associates, PC
1537 Main Street
Suite 305
Springfield, MA 01103
413-787-9995
Fax: 413-787-9925
Email: jpm@mckennapc.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

Frederick MacDonald
*High Sheriff, Franklin County House of
Corrections*

represented by **Karen L. Goodwin**
United States Attorney's Office
1550 Main Street
Springfield, MA 01103
413-785-0269
Fax: 413-785-0394
Email: karen.goodwin@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Tom Ridge
Secretary, Department of Homeland

represented by **Karen L. Goodwin**
(See above for address)

Security

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Michael J. Garcia

Assistant Secretary (Designee), Bureau
of Immigration and Customs
Enforcement (BICE)

Respondent

Eduardo Aguirre

Acting Director, Bureau of Citizenship
and Immigration Services (BCIS)

Respondent

Bruce Chadbourne

Interim Director BICE, Boston

represented by **Karen L. Goodwin**

(See above for address)

ATTORNEY TO BE NOTICED






Date Filed	#	Docket Text
05/11/2004	<u>1</u>	PETITION for Writ of Habeas Corpus pursuant to 28:2241 and Complaint for Injunctive and Declaratory Relief by Richard Sitcha filed. Filing fee of \$5.00 paid. Receipt number 305612. (Attachments: # <u>1</u> # <u>2</u>) (Finn, Mary) Modified on 5/11/2004 (Finn, Mary). (28:2241 Habe Petition not signed) (Entered: 05/11/2004)
05/11/2004	<u>2</u>	Letter/request (non-motion) from Harve Kaplan re: <u>1</u> Habe Petition not being signed by Richard Sitcha filed. (Finn, Mary) (Entered: 05/11/2004)
05/11/2004	<u>3</u>	Judge Michael A Ponsor : SERVICE ORDER re 2241 Petition entered. Order entered pursuant to R.4 of the Rules governing Section 2241 cases for service on respondents. Answer/responsive pleading due w/in 60 days of rcpt of this order. Respondents shall advise the Court of any scheduled deportation or removal of the Petitioner at least thirty (30) days prior to any deportation or removal; cc/Frank Crowley, Karen Goodwin and Respondent Frederick MacDonald.(Finn, Mary) Modified on 5/12/2004 (Finn, Mary). (Entered: 05/11/2004)
05/20/2004	<u>4</u>	Petitioner's EMERGENCY Letter Motion for Appointment of Counsel by Richard Sitcha filed.(Finn, Mary) (Entered: 05/20/2004)
05/26/2004		Electronic Clerk's Notes for proceedings held before Judge Michael A Ponsor : Status Conference held on 5/26/2004. Myles Jacobson appears for plaintiff - possible appointment by court - Returing on 6/29/04 at 3:00 p.m. for further status (PLAINTIFF TO BE PRESENT) (Court Reporter Sara Mubarek.) (French, Elizabeth) (Entered: 05/27/2004)
05/27/2004		Set/Reset Hearings: Further Status Conference set for 6/29/2004 03:00 PM in Courtroom 2 before Honorable Michael A Ponsor. (French, Elizabeth) (Entered: 05/27/2004)

06/15/2004	<u>5</u>	MOTION for Leave to Proceed in forma pauperis by Richard Sitcha. (Stuckenbruck, John) (Entered: 06/15/2004)
06/15/2004	●	Judge Michael A Ponsor : ORDER entered denying [5] Motion for Leave to Proceed in forma pauperis. Petitioner has sufficient funds to retain an attorney.(motion not scanned due to financial information on application) (Stuckenbruck, John) (Entered: 06/15/2004)
06/18/2004	<u>6</u>	Petitioner's MOTION for reconsideration regarding signature on his Habeas Corpus by Richard Sitcha.(Lindsay, Maurice) (Entered: 06/21/2004)
06/21/2004	<u>7</u>	MOTION to Continue Status Conference on 6/29/04 and MOTION to Stay Deportation by Richard Sitcha. (MOTION UNSIGNED, SEE ATTACHED LETTER)(Stuckenbruck, John) (Entered: 06/21/2004)
06/29/2004	●	Judge Michael A Ponsor : Electronic ORDER entered granting <u>7</u> Motion to Continue status conference, granting <u>7</u> Motion to Stay Deportation. Conference on 7/12/04 @ 2:30 PM. (Plaintiff to be present - French Interpreter to be provided) (French, Elizabeth) Modified on 7/2/2004 (Stuckenbruck, John). (Entered: 07/01/2004)
07/09/2004	<u>8</u>	MOTION to Dismiss by Frederick MacDonald, Tom Ridge.(Lindsay, Maurice) (Entered: 07/09/2004)
07/09/2004	<u>9</u>	Return and MEMORANDUM of law in Support its <u>8</u> MOTION to Dismiss filed by Frederick MacDonald, Tom Ridge. (Lindsay, Maurice) (Entered: 07/09/2004)
07/12/2004	●	Mail Returned as Undeliverable. Mail sent to Richard Sitcha (Lindsay, Maurice) (Entered: 07/12/2004)
07/12/2004	●	Electronic Clerk's Notes for proceedings held before Judge Michael A Ponsor : Status Conference held on 7/12/2004. Attorney McKenna appears for status conference, will need to meet with plaintiff further before decision is made as to whether he will represent plaintiff - Further conference set for 7/21/04 at 2:00 p.m.; Attorney McKenna will meet w/plaintiff prior to hearing; plaintiff to be habed in for this status conference; Court indicates plaintiff shall not be deported nor moved from facility without further order of the court (french interpreter to be provided) (Court Reporter Sara Mubarek.) (French, Elizabeth) (Entered: 07/12/2004)
07/16/2004	<u>10</u>	Remark HABE ISSUED FOR PLAINTIFFS APPEARANCE ON 7/21/04 AT 1:30 P.M.; DOCUMENT NOT SCANNED (French, Elizabeth) (Entered: 07/19/2004)
07/21/2004	●	Electronic Clerk's Notes for proceedings held before Judge Michael A Ponsor : Status Conference held on 7/21/2004. Order will be issued. (Court Reporter Sue Mitchell.) (Lindsay, Maurice) (Entered: 07/22/2004)
07/28/2004	<u>11</u>	NOTICE of Appearance by John P. McKenna on behalf of Richard Sitcha (Lindsay, Maurice) (Entered: 07/28/2004)

08/09/2004	<u>12</u>	MOTION to Release Petitioner on Bail by Richard Sitcha.(Lindsay, Maurice) (Entered: 08/09/2004)
08/09/2004	<u>13</u>	MEMORANDUM in Support of <u>12</u> MOTION to Release Petitioner on Bail filed by Richard Sitcha. (Attachments: # <u>1</u> Exhibits# <u>2</u> Exhibits) (Lindsay, Maurice) (Entered: 08/09/2004)
08/16/2004	<u>14</u>	Judge Michael A Ponsor : SCHEDULING ORDER entered. Cl. for the petition to convey a letter to cl. for the respondents re: necessary docs. by 7/30/2004. Cl. for the respondents to ans. the letter by 8/13/2004, providing whatever docs. cl. is willing and able to produce. Cl. for the petitioner to resp. to the respondents' <u>8</u> MOTION to Dismiss by 9/03/2004. Cl. for the respondents may reply by 9/14/2004. Hearing (argument) on <u>8</u> MOTION to Dismiss set for 9/23/2004 at 02:00 PM in Courtroom 1 before Honorable Michael A Ponsor. Cl. for the petitioner may move at any time for release of the petitioner upon conditions, either with the agreement of the respondents, or over respondent's objection. Pending further order of the Court, the respondent is hereby ordered not to deport the petitioner, or transfer him outside the four counties of Western Mass. NOTE: The deadlines described above were discussed at the 7/21/2004 conf. Issuance of this written order has been delayed while the undersigned was away; ccv/cl.(Finn, Mary) (Entered: 08/16/2004)
08/23/2004	<u>15</u>	Respondents resp. in Opposition to the Petitioner's <u>12</u> MOTION to Release Petitioner on Bail filed.(Finn, Mary) (Entered: 08/24/2004)
08/25/2004		Mail Returned as Undeliverable. Mail sent to Richard Sitcha (Lindsay, Maurice) (Entered: 08/25/2004)
09/01/2004	<u>16</u>	NOTICE of Hearing on Motion <u>12</u> MOTION to Release Petitioner on Bail: Motion Hearing set for 9/10/2004 10:00 AM in Courtroom 1 before Honorable Michael A Ponsor. Interpreter to be present: Jean Robert Obas Defendant to be present(French, Elizabeth) (Entered: 09/01/2004)
09/03/2004	<u>17</u>	Petitioner's MEMORANDUM of law in Opposition to Respondent's <u>8</u> MOTION to Dismiss filed by Richard Sitcha. (Lindsay, Maurice) (Entered: 09/03/2004)
09/09/2004	<u>18</u>	Remark Writ issued for Richard Sitcha to appear for hearing on 9/10/04 at request of Marshal Service (French, Elizabeth) (Entered: 09/09/2004)
09/10/2004		Electronic Clerk's Notes for proceedings held before Judge Michael A Ponsor : Motion Hearing held on 9/10/2004 re <u>12</u> MOTION to Release Petitioner on Bail filed by Richard Sitcha. Oral Order denying Motion to release petitioner (Court Reporter Alice Moran.) (French, Elizabeth) (Entered: 09/10/2004)
09/10/2004		Judge Michael A Ponsor : electronic ORAL ORDER entered in open court denying <u>12</u> Motion for release (French, Elizabeth) (Entered: 09/10/2004)
09/23/2004	<u>19</u>	NOTICE of Hearing on Motion <u>8</u> MOTION to Dismiss: Motion Hearing RESET for 10/6/2004 02:30 PM in Courtroom 1 before Honorable

		Michael A Ponsor. (French, Elizabeth) (Entered: 09/23/2004)
09/29/2004	●	Remark STAFF NOTES - TIME CHANGE FOR MOTION HEARING ON 10/6/04 HEARING CONFIRMED W/COUNSEL - TIME CHANGE TO 2:00 P.M. INTERPRETER TO BE UTILIZED JEAN ROBERT OBAS - PLAINTIFF TO BE PRESENT - HABE WILL BE ISSUED (French, Elizabeth) (Entered: 09/29/2004)
09/29/2004	●	WRIT issued FOR PLAINTIFF'S APPEARANCE ON OCTOBER 6, 2004 AT 2:00 P.M. TO MARSHALS THIS DATE (French, Elizabeth) (Entered: 09/29/2004)
10/06/2004	● <u>20</u>	MEMORANDUM OF DEFENSE AND MOTION to be Released by Richard Sitcha.(Lindsay, Maurice) (Entered: 10/06/2004)
10/06/2004	●	Electronic Clerk's Notes for proceedings held before Judge Michael A Ponsor : Motion Hearing held on 10/6/2004 re <u>8</u> MOTION to Dismiss filed by Frederick MacDonald, Tom Ridge, <u>20</u> MOTION to be Released filed by Richard Sitcha. (Court Reporter Alice Moran.) (French, Elizabeth) (Entered: 10/07/2004)
11/02/2004	● <u>21</u>	MOTION for Extension of Time to 11/15/04 to File additional documents by Frederick MacDonald, Tom Ridge.(Lindsay, Maurice) (Entered: 11/02/2004)
11/03/2004	●	Judge Michael A Ponsor : ELECTRONIC ENDORSED ORDER entered granting the Deft's Assented to <u>21</u> Motion for Extension of Time to File additional documents until 11/15/2004; cc/cl. (Finn, Mary) (Entered: 11/03/2004)
11/08/2004	● <u>22</u>	Respondents' Frederick MacDonald, Tom Ridges' Notice of filing documents and citation of suppl. authority in support of their <u>8</u> MOTION to Dismiss filed. (Attachments: # <u>1</u> - Exhibits) Documents not scanned due to being to voluminous.(Finn, Mary) (Entered: 11/08/2004)
11/10/2004	● <u>23</u>	NOTICE of filing documents by Richard Sitcha (Lindsay, Maurice) (Entered: 11/10/2004)
11/10/2004	● <u>24</u>	AFFIDAVIT of Sitcha Richard by Richard Sitcha. (Lindsay, Maurice) (Entered: 11/10/2004)
11/10/2004	● <u>25</u>	AFFIDAVIT of Sitcha Richard by Richard Sitcha. (Lindsay, Maurice) (Entered: 11/10/2004)
11/16/2004	● <u>26</u>	Petitioner's MOTION to delay action until 11/19/2004 on the <u>24</u> and <u>25</u> Affidavits of Richard Sitcha by Richard Sitcha filed.(Finn, Mary) (Entered: 11/16/2004)
11/18/2004	●	Judge Michael A Ponsor : ENDORSED ORDER entered granting <u>26</u> Motion to delay action on affidavit (Lindsay, Maurice) (Entered: 11/19/2004)
11/19/2004	● <u>27</u>	Ptf's MOTION Delay action on affidavit by Richard Sitcha.(Lindsay, Maurice) (Entered: 11/22/2004)

11/22/2004	<u>28</u>	Petitioner's MOTION for Leave to submit suppl. affidavit and other supporting materials by Richard Sitcha filed.(Finn, Mary) (Entered: 11/22/2004)
11/22/2004	<u>29</u>	NOTICE of filing suppl. affidavit and suppl. exhibit 8 by Richard Sitcha filed. (Finn, Mary) (Entered: 11/22/2004)
11/22/2004		Judge Michael A Ponsor : ENDORSED ORDER entered granting the Petitioner's <u>27</u> Motion to delay action on affidavit; cc/cl. (Finn, Mary) Modified on 11/23/2004 (Finn, Mary). (Entered: 11/23/2004)
11/22/2004		Judge Michael A Ponsor : ENDORSED ORDER entered granting the Petitioner's <u>28</u> Motion for Leave to File suppl. affidavit and other supporting material; cc/cl. (Finn, Mary) Modified on 11/23/2004 (Finn, Mary). (Entered: 11/23/2004)
11/23/2004	<u>30</u>	SUPPL. AFFIDAVIT of Richard Sitcha by Richard Sitcha filed. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u>)(Finn, Mary) (Entered: 11/23/2004)
12/16/2004	<u>31</u>	MOTION for Leave to File by Bruce Chadbourne, Tom Ridge.(Goodwin, Karen) (Entered: 12/16/2004)
01/04/2005		Judge Michael A Ponsor : ENDORSED ORDER entered granting the Respopndent's <u>31</u> Motion for Leave to File affidavit of Anthony D. Collins; cc/cl. (Finn, Mary) (Entered: 01/05/2005)
01/05/2005	<u>32</u>	Respondents' AFFIDAVIT of Anthony D. Collins by Frederick MacDonald, Tom Ridge, Bruce Chadbourne filed. (Finn, Mary) (Entered: 01/05/2005)
03/01/2005	<u>33</u>	AFFIDAVIT of Sitcha Richard in support of his <u>1</u> Petition (2254) by Richard Sitcha. (Attachments: # <u>1</u> Exhibits# <u>2</u> Exhibits# <u>3</u> Exhibit) (Lindsay, Maurice) (Entered: 03/01/2005)
03/01/2005	<u>34</u>	AFFIDAVIT of Sitcha Richard in support of his <u>1</u> Petition (2254) by Richard Sitcha. (Attachments: # <u>1</u> Exhibits)(Lindsay, Maurice) (Entered: 03/01/2005)
03/11/2005	<u>35</u>	Proposed Document(s) submitted by Richard Sitcha. Document received: Letter & INS Appeal Brief entitled Exhibit-H. (Lindsay, Maurice) (Entered: 03/11/2005)
03/31/2005	<u>36</u>	Judge Michael A Ponsor : MEMORANDUM AND ORDER entered granting <u>8</u> Motion to Dismiss. See the attached memo & order for complete details. cc/cl (Lindsay, Maurice) (Entered: 03/31/2005)
03/31/2005	<u>37</u>	Judge Michael A Ponsor : ORDER entered. JUDGMENT in favor of Respondent's Frederick MacDonald, et al., against Petitioner Richard Sitcha. cc/cl(Lindsay, Maurice) (Entered: 03/31/2005)
04/01/2005	<u>38</u>	MOTION Lift Stay by Tom Ridge, Bruce Chadbourne.(Goodwin, Karen) (Entered: 04/01/2005)
04/04/2005		E-Mail Notice re motion to stay originally issued on 3/31/05 returned as undeliverable. Name of Addressee: John McKenna Mailbox full. E-mail

		resent. (Stuckenbruck, John) (Entered: 04/04/2005)
04/06/2005	 39	NOTICE of Change of Address by Richard Sitcha (Lindsay, Maurice) (Entered: 04/06/2005)
04/18/2005	 40	Petitioner's RESPONSE in Opposition to the Respondents' 38 MOTION Lift Stay and Petitioner's req. for stay of deportation pending sixty (60) day Appeal Period by Richard Sitcha filed. (Finn, Mary) Modified on 4/18/2005 (Finn, Mary). (Entered: 04/18/2005)
04/21/2005		Judge Michael A Ponsor : ENDORSED ORDER entered denying 38 Motion to lift stay of deportation. DENIED. The stay will remain in place during the appeal period. Petitioner is entitled to seek review of this court's decision. So Ordered. cc/cl (Lindsay, Maurice) (Entered: 04/21/2005)
05/17/2005	 41	NOTICE OF APPEAL as to 37 Judgment, 36 Order on Motion to Dismiss by Richard Sitcha. Notice of Appeal filed in USCA on 5/17/05 and received by USDC on 6/6/05 w/instructions to docket appeal as of 5/17/05. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 6/6/2005. (Stuckenbruck, John) (Entered: 06/06/2005)
06/06/2005		Original file forwarded to Appeals Clerk, Boston (Stuckenbruck, John) (Entered: 06/06/2005)